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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,822	03/15/2005	Daisuke Kurosaki	266419US6PCT	4564

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EXAMINER	
HUYNH, SON P	

ART UNIT	PAPER NUMBER
2623	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/527,822	KUROSAKI ET AL.	
	Examiner	Art Unit	
	Son P. Huynh	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/15/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 3/15/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the documents do not have English translation copy. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 23 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Pages 52-53 of the interim guidelines stated "a claimed computer readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory."

Claim 23 recites "a program that causes a computer ...." does not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized, and is thus non statutory.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-22, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 2003/0020744 A1 – referred as Ellis).

Note: US 2005/0149964 A1 (referred as Thomas), US 2005/0204388 A1 (referred as Knudson), US 2003/0149988 A1 (referred as E988), US 2005/0204387 A1 (referred as K387) are incorporated by reference in Ellis in their entireties (see Ellis - paragraphs 0068, 0092, 0098, 0102, 0104, 0107, 0108). All references incorporated by reference in their entirety in Ellis are treated as part of Ellis specification.

Regarding claim 1, Ellis discloses a data processing apparatus (interactive program guide system - figure 1) that performs data processing to generate an EPG (Electronic program guide) to be displayed on display means displaying information (e.g., television screen, PC/TV screen, etc.) – see figures 1-7; Thomas: figures 1-2,4,9-15), characterized by including:

program guide data acquiring means for acquiring program guide data that gives guidance on programs (e.g., device at television distribution facility or at the set top box for acquires program guide data from program guide data base in main facility – see include, but are not limited to, figures 1-7; Thomas: figure 1, paragraphs 0030, 0032, 0035);

statistical data acquiring means for acquiring statistical data representing degrees of interest in the programs shown by users (e.g., device at the user television equipment including usage monitor, viewing activities monitor, memory at distribution facility, etc. for obtaining viewer behaviors including real time rating of programs shown by users – see include, but are not limited to, figures 2a, 2c, 3-4, paragraphs 0045-0046, 0107; Thomas: figures 4, 9, paragraphs 0035, 0050, 0055-0057, 0060-0061);

EPG generating means for generating an EPG in which the program guide data and the statistical data are superimposed (e.g., program guide generating device at distribution facility or at the user television equipment for generating an EPG comprises program guide data such as program title and (or according to) real time rating data - see include, but are not limited to, figures 2a-2c, Thomas: figures 9-11, paragraphs 0065-0070).

Regarding claim 2, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Ellis further discloses the statistical data includes at least one of the numbers of persons who viewed a program during a broadcast time thereof, an audience rating (real time rating) of the program during the broadcast time thereof... (see include, but are not limited to, paragraphs 0107; Thomas: paragraphs 0055-0056, 0069).

Regarding claim 3, Ellis discloses the data processing apparatus as discussed in the rejection of claim 2. Ellis further discloses the statistical data is obtained on the basis of information transmitted from user terminals of users (statistical data including real time rating data, viewing information, etc. is obtained from user television equipments - see include, but are not limited to, paragraph 0107; Thomas: paragraphs 0055-0056, 0069, 0072);

the audience rating (real time rating, viewer preferences) of program during the broadcast time thereof is obtained using the number of users of the user terminals

which transmitted the information a predetermined number of time or more within a predetermined period (e.g., hour, day, week, instant, etc.), as a population parameter (see include, but are not limited to, figures 13a-13c, paragraphs 0107-0112); Thomas: paragraphs 0069-0073).

Regarding claim 4, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Ellis further discloses data such as program guide data is distributed to set top boxes periodically (E988: paragraph 0012; Thomas: paragraph 0035). The user may have real time ratings displayed for programs for the current evening, or programs being aired at that instant (Thomas: paragraph 0070). Thus, the EPG transmission means (e.g., EPG transmitting device at the main facility or at the distribution facility) transmits a latest EPG generated by the EPG generating means to the user of a user terminal so that the EPG including real time rating is displayed in real time (see also: E988: paragraph 0012).

Regarding claim 5, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Ellis further discloses history data acquiring means for acquiring, as to each of the users, history data which is a history of actions related to program viewing taken by the user (device/usage monitor that obtains viewer actions/activities - see include, but are not limited to, paragraph 0107; Thomas: paragraphs 0055-0057, 0072-0073); wherein the EPG generating means generates the EPG in which the program guide data, the statistical data, and the history data are superimposed

(generating EPG and displaying EPG based on program guide data (e.g., title, program identifier, etc.), rating data, and collected viewer behaviors, viewer activities, viewer actions - see include, but are not limited to, paragraphs 0107-0112; Thomas: figures 4-11, paragraphs 0065-0070).

Regarding claim 6, the limitations that correspond to the limitations of claim 5 are analyzed as discussed in the rejection of claim 5, wherein the "operation data" corresponds to "history data" which is interpreted as activities information/usage data (see also, paragraphs 0107-0112).

Regarding claim 7, Ellis further discloses the EPG generating means generates the EPG in which the program guide data is displayed in a different manner for different broadcast status of a program (e.g., the program guide client indicate that a program is new to a household by, for example, displaying a suitable icon or changing the display characteristics of listing (e.g., changing its color) - see include, but are not limited to, figure 7, paragraph 0109).

Regarding claim 8, Ellis discloses the data processing apparatus as discussed in the rejection of claim 7. Ellis further disclose the EPG generating means generates the EPG in which the program guide data is displayed in different manner for a program which ended, a program which is being broadcast and a program which will be broadcast (e.g., display in different manner such as different color, with a icon, etc., for program

was recorded, new program, and program scheduled for recording - see include, but are not limited to, paragraph 0109; E988: paragraphs 0125-0126, figures 11a-11b, 12a-12b, 18a-18f).

Regarding claim 9, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Ellis further discloses the EPG generated by the EPG generating means is displayable by a web browser (e.g., on line program guide displayable by a web browser – see include, but are not limited to, paragraph 0041; E988: paragraphs 0072, 0160).

Regarding claim 10, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Ellis further discloses the EPG generated by the EPG generating means is displayable by a dedicated web browser (interpreted as web browser for display on line program guide– see include, but are not limited to, paragraph 0041; E988: paragraphs 0072, 0160).

Regarding claim 11, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Ellis further discloses aggregating means for aggregating information transmitted from user terminals of users and obtaining the statistical data (e.g., component such as upstream receiver/interface or processing circuitry in television distribution facility for collecting together information such as viewer activities, real time rating, etc. from the user television equipment and obtaining the collected

activities data and/or rating data - see include, but are not limited to, paragraphs 0010, 0045, 0107-0110; Thomas: figures 1, 4, 9, 13);

wherein the statistical data acquiring means acquires the statistical data obtained by the aggregating means (e.g., data processing facility/memory acquires the viewing data, activities data, etc. received by the upstream receiver/interface or processing circuitry at the distribution facility and stores in the memory -see include, but are not limited to, paragraphs 0010, 0045, 0107-0110; Thomas: figures 1, 4, 9, 13).

Regarding claim 12, Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Ellis further discloses information of viewer histories/activities are transmitted from the user television equipments to television distribution facility (see include, but are not limited to, paragraphs 0010, 0045, 0108-0110; Thomas: paragraphs 0035, 0041, 0069, 0073), wherein the information in viewer's histories/activities includes watching a program, recording a program, purchasing a program, playback recorded program, etc. (see include, but are not limited to, paragraphs 0010, 0045, 0107-0110; Thomas: paragraphs 0050, 0055-0057, 0067, 0069; E988: paragraphs 0151-0153). Thus, the information transmitted from user terminals (e.g., user television equipments) is first information representing that a program is viewed during a broadcast time thereof (e.g., information of user viewing/watching a program in real time/during broadcast time), second information representing that a program recorded during a broadcast time thereof is viewed by playback (e.g., information collected in response to user action of recording a program and playback a recorded program), or third information

representing that a program is scheduled for recording (see include, but are not limited to, E988: figures 12b, 18a-18f).

Regarding claim 13, Ellis discloses the data processing apparatus as discussed in the rejection of claim 12. Ellis further discloses the first information includes information which specifies the program viewed by a user and a viewing date/time of the program (e.g. date and time of action, including program viewed, was taken in the program guide may be monitored and appropriate information may be stored in data structure – see include, but are not limited to, paragraphs 0055-0057);

the second information includes information which specifies a recorded program viewed by the user and a viewing date/time of the recorded program which uses a broadcast date/time of the recorded program viewed by the user as a reference (see include, but are not limited to, E988: 0151-0153; Thomas, paragraphs 0055-0057);

the third information includes information which specifies the program which is scheduled for recording or whose recording is canceled, and information representing the recording schedule or cancellation thereof (e.g., information which specifies the program which is schedule for recording and information representing the recording schedule such as title, time, etc. - see include, but are not limited to, E988: figures 11a-11b, 12a-12b, 18a-18f; Thomas: paragraphs 0055-0057).

Regarding claim 14, Ellis further disclose the first and second information further include a good impression level representing how the users feel about the program (e.g., strong

like, week like, high demand, etc. - see include, but are not limited to, figures 13a-13d; Thomas, paragraph 0070).

Regarding claim 15, Ellis discloses the user action includes playback/viewing recorded program (see include, but are not limited to, E988: paragraphs 0151-0157). Ellis further discloses all viewer actions/activities are recorded and date and time of the action was taken in the program guide also monitored and appropriate information may be stored in the data structure (see include, but are not limited to, Thomas, paragraph 0055-0057). Thus, the second information includes an actual viewing date/time at which the user playback and/or viewed the recorded program.

Regarding claim 16, Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Ellis further discloses the information transmitted from the user terminal includes date/time information about broadcast dates/times of the programs (information transmitted from the user television equipment includes recording schedule including broadcast dates/times (air times) of the programs - see include, but are not limited to, paragraph 0100-0104, 0109; E988: figure 18f; Knudson: figures 10, 13-16);

the aggregation means aggregates the information transmitted from the user terminals for predetermined time intervals on the basis of the date/time information included in the information (e.g., upstream receiver interface/ processing circuitry receives user information/viewer activities periodically - see include, but are not limited to, 0100-0104, 0108-0109, 0119, 0125; E988: figure 18f; Knudson: figures 10, 13-16).

Regarding claim 17, Ellis further discloses the aggregation means sorts and stores the information transmitted from the user terminal by the users (e.g., the collected information is filtered/analyzed and stored in storage device - see include, but are not limited to, paragraphs 0010, 0045, 0107, 0108, 0119, 0125; Thomas, paragraphs 0069-0075).

Regarding claim 18, Ellis further discloses the aggregation means determines whether or not the information transmitted from the user terminals is valid, and takes only valid information for aggregation (e.g., analyzing, filtering less important data and taking only high important data or desired data - see include, but are not limited to, paragraphs 0107-0112; Thomas: paragraphs 0069-0075).

Regarding claim 19, Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Ellis further discloses the aggregation means aggregates the information transmitted from the user terminals for each of user attributes (e.g., user identifier, user profile, user demographic values, etc. see include, but are not limited to, paragraphs 0107-0112, 0119, 0120; Thomas, paragraphs 0072-0073).

Regarding claim 20, Ellis discloses data processing apparatus as discussed in the rejection of claim 11. Ellis further discloses the information transmitted from the user terminals includes a good impression level representing how the users feel about a

program (e.g., user preferences include strong like, weak like, strong dislike, high demand, etc. - see include, but are not limited to, figures 13a-13d, paragraphs 0089-0090, 0107-0112; Thomas: paragraphs 0069-0073);

the aggregation means aggregates the good impression level for each of the programs (upstream receiver or processing circuitry aggregates the user preferences including strong like, weak like, etc. for each of the programs - see include, but are not limited to, figures 2a-2d, 13a-13d, paragraphs 0089-0090, 0107-0112; Thomas: paragraphs 0069-0073).

Regarding claim 21, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Thomas further discloses the EPG generating means generates an EPG in which the program guide data for one day is displayed on one page (e.g. the program guide server or EPG generating device at user television generates an EPG in which when the user selects day button or page up/page down, or day forward, day backward for the listing of a day (see include, but are not limited to, K387: paragraphs 0099-0101; E988: paragraph 0072, and US 2003/0066085 (continuation of 08/938,028 which is incorporated by reference in its entirety in E988) figures 16-22, 26, paragraph 0103).

Regarding claim 22, the limitations of the method as claimed correspond to the limitations of the apparatus as claimed in claim 1, and are analyzed as discussed with respect to the rejection of claim 1.

Regarding claim 24, the limitations that correspond to the limitations of claim 1 are analyzed as discussed in the rejection of claim 1. Ellis further discloses a server (e.g. main facility and/or television distribution facility) for transmitting information; and a user terminal (e.g., user television equipment) for receiving information from the server (see include, but are not limited to, figures 1-4.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 2003/0020744 A1).

Claim 23 is directed toward embody the method of claim 1 in "a program". It would have been obvious to embody the procedures of Ellis discussed with respect to claim 1 in a "program" in order that the instructions could be automatically performed by a processor.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kahn (US 7,100,184 B1) discloses method and apparatus for rapid access of program guide information.

Goldman (US 2002/0112239 A1) discloses modifying an electronic program guide based on viewer statistic.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/
Primary Examiner, Art Unit 2623

February 28, 2008